IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7803 OF 2005

Mr.Dilip Udaylal Jain & Ors. ..Applicants
Versus
State of Maharashtra ..Respondent

Mr. A.P. Mundargi, senior Counsel with
Mr.A.M.Saraogi for the applicants.
Mr. S.S.Pednekar, A.P.P. for State.

CORAM : S.C. DHARMADHIKARI, J.
DATE : DECEMBER 22, 2005.

P.C.:

. Heard Mr.Mundargi learned senior counsel appearing for the applicants and Mr.Pednekar learned A.P.P for the State. Perused the application and annexures thereto. So also the statement of Mr.Yogesh Rupchand Jasnani, owner of Thakurdas Jewellers. Also perused the affidavit filed by the Investigating Officer.

2. Prima-facie, there is much substance in the contention of Mr.Mundargi that the complainant in this case has a grievance against the prima accused Raina Ramchandani. This accused has collected several jewellery articles from the jewellery shops in the market and purportedly sold them without repaying the money or reimbursing the sale-proceeds in full. As

far as the present applicants are concerned, they have no privity with the complainant, but, the said articles had been handed over by Raina Ramchandani to them and she has taken away the same after making payment in respect thereof. The identity of the articles of the complainant, which were allegedly handed over to the present applicants is itself in doubt. Further, in an identical complaint, the applicants have been enlarged on bail. The applicants are ready and willing to attend the Khar Police Station, Mumbai as and when summoned. Further, Mr.Mundargi states that the statement in the affidavit about the complainant in this case having taken away the property is false. That is a misreading of the statement of the applicants recorded at the concerned Police Station.

3. Prima-facie, the learned Judge was in error in proceeding to hold that as far as the applicants are concerned the offences under Section 406, 410 and 411 of the Indian Penal Code are made out. The dispute appears to be recovery of money after the articles were disposed of by the prime-accused. In these circumstances, the applicants are entitled to be enlarged on bail, in the event of their arrest in the subject C.R.. Accordingly, following order :

i) In the event of the arrest of the applicants in connection with C.R.No.349/2005 & 350/2005 registered with Khar Police Station, the applicants shall be enlarged on bail in the sum of Rs.25,000/- with one or two sureties in the like amount.

ii) Applicants shall attend Khar Police Station on once in a week on every Friday between 05:00 p.m. to 07:00 p.m..

iii) Bail is granted subject to the condition that applicant shall not directly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. Applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicants only till charge sheet is filed. Thereafter he will be free to apply to the appropriate Court for appropriate relief.

vi) Application disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI,J.)